From: Mumford, David
To: George Mathieus (gemathieus@mt.gov)
Cc: McInnis, Amanda (Amanda.McInnis@hdrinc.com); Tina Laidlaw/MO/R8/USEPA/US@EPA
Subject: Variance Process Response
Date: 07/02/2012 03:22 PM

Hi George

Sorry for the delay in responding to you. You sent a lot of information to review and Amanda and I wanted to make sure we understood it and had a coherent response. First I want to thank you, Tina, and the DEQ staff for your work in addressing the Leagues concerns and trying to find solutions. It is very clear that you not only listened, but are sincerely trying to find a way to make this work. The following are clarifications from our meeting:

- Both mechanical and lagoon systems must meet proposed Numeric Nutrient Standards. They will follow the same process as the larger dischargers.
- When SB 367 expires the next level of nutrient treatment will not be at level of technology 4 mg/L TN and 0.7 mg/L TP, but may be a range or could stay at 10 and 1 if a discharger can show there is no meaningful improvement in water quality.
- Variances from the adopted standards may continue for dischargers past 20 years depending on LOT and economic analysis.
- We need continued discussion on using 1 % MHI. After reading EPA "Interim Economic Guidance for Water Quality Standards", there is a long section in the v71 document about the EPA sliding MHI scale and the socio-economic score for an economic variance. It looks to us like this is saying pretty clearly that the 1% MHI is off the table. As you know this is an important topic for the League members.

The section of the variance diagram regarding the General Variance Treatment Levels is a very good overview of the process. The following is intended to be clarification and specific limits for the 5 variance steps.

1) It's too costly or limits of technology: Continuing with Tina's discussion that the LOT to be used after SB 367 should be a range, we are proposing the range be 10 mg/L TN to 4 mg/L TN and 1 mg/L TP to 0.7 mg/l TP. The next LOT range levels will be established in the future based on new processes that provide consistent reductions of nutrients.
2) Facility moves to zero waste load allocation: No clarification necessary
3) Upstream assimilative capacity … : We are assuming DEQ is recommending the 14Q5 stated in your documents.
4) Approved TMDL… : This variance would be documented using an approved DEQ watershed scale model of the nutrient loading into the dischargers receiving water. By modeling all the loading into a watershed from both point source and non-point source, a calculation of the wastewater discharger's percentage of the nutrient loading into the receiving water can be determined. Utilizing the criteria outlined in Rule 17.30.715, "Criteria for Determining Nonsignificant Changes in Water Quality", we would ask that a discharger be considered insignificant if they meet the criteria in MCA 75-5-303 (a) of 15%. To be clear, we are talking about a watershed scale analysis rather than a reach-specific analysis.

5) Upgrade to new General Variance (net environmental benefit)… : This items still needs clarification. I would ask that Tina provide more guidance on how this is applied by EPA.

Again I want to thank you and everyone else for their patience and hard work.

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